

BEFORE THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

MISSOURI ALLIANCE FOR FREEDOM, INC.,	)	
Plaintiff,	)	
vs.	)	Case No. 17AC-CC00365
STATE AUDITOR NICOLE GALLOWAY,	)	
Defendant.	)	

ORDER

The Court takes up the pending cause for ruling on the pending Motions to Dismiss and Protective Orders. Being duly advised in the premises, the Court makes the following findings;

1. The provisions of Chapter 29 RSMo, including but not limited to §§29.070, 29.200, 29.221, clearly indicate the intent to protect information obtained by and held by the State Auditor as confidential in order to facilitate the State Auditor's performance of her official duties.
2. The Court finds as a matter of law that the following classes of records are not subject to disclosure under the provisions of the Missouri Open Records Open Meetings law a/k/a the "Sunshine Law":
  - a. Audit workpapers and related supportive material as follows:
    - i. Records of the timing, extent, and results of auditor procedures performed;
    - ii. Records of the audit evidence obtained and its source;
    - iii. Records of the conclusions reached by the auditor and evidence obtained that supports the auditor's judgments and conclusions;
    - iv. Records of any information or materials used and relied on in performing the audit;
    - v. Records of any interpretations and advisory opinions;

- vi. Records related to planning, conducting, and reporting for an audit;
  - vii. Records of communications between audit staff and any State Auditor's Office personnel related to the performance of the audit;
  - viii. Communications between the State Auditor's Office and any public governmental body subject to audit, save for the final audit reports provided for by statute;
- b. Communications of the General Counsel (Paul Harper) other than those directed to third parties, not related to a specific audit and not with any public governmental body related to any audit; and
  - c. Correspondence relating to any lawsuit save the instant cause.
- 3. The Court declines to require a *Vaughn* index or a privilege log as to the above styled categories of records.
  - 4. To the extent that the instant cause seeks production of records described above or damages from non-production, any such claims are dismissed.
  - 5. Plaintiff is directed to re-plead his claims, placing any claims regarding records described in paragraph 2 in a separate count or counts, clearly setting forth the records for which it is making claims of non-production and/or non-compliance. Said amended pleading is due within thirty (30) days of this order. Defendant may file its answer within ten (10) days thereafter.
  - 6. The Court denies all other pending claims for relief or motions made by the Defendant without prejudice to reconsideration after the Plaintiff has repleaded its case.
  - 7. Counsel are directed to schedule a status conference, at a time mutually agreeable to the

parties and the Court, after March 20, 2018, to discuss what revisions to the existing stay of discovery will be permitted and scheduling of further hearings.

SO ORDERED this 7<sup>th</sup> day of February, 2018.

A handwritten signature in black ink, appearing to read "Jon E. Beetem". The signature is written in a cursive, flowing style with a prominent initial "J".

Jon E. Beetem, Circuit Judge